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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

THE STATE OF TEXAS, et al.,	§	
	§	
Plaintiffs,	§	Civil Action No. 4:20-cv-00957-SDJ
v.	§	
	§	
GOOGLE LLC,	§	
	§	
Defendant.	§	

**DECLARATION OF MICHAEL DAVIS IN SUPPORT OF GOOGLE’S
OMNIBUS MOTION TO EXCLUDE EXPERT TESTIMONY**

I, Michael Davis, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am an attorney at the law firm Gibbs & Bruns LLP, which represents Defendant Google LLC (“Google”) in the above-captioned case. I am admitted to practice in this Court, the Courts of the State of Texas, and others. As a result of my role in this case, I have personal knowledge of the facts stated in this declaration, which I submit in support of Google’s Omnibus Motion to Exclude Expert Testimony, dated November 18, 2024.

2. Attached to this declaration as Exhibit 1 is a true and correct copy of the transcript from the deposition of Plaintiffs’ retained expert Dr. Matthew Weinberg, taken on October 8, 2024.

3. Attached to this declaration as Exhibit 2 is a true and correct copy of the original expert report of Plaintiffs’ retained expert Dr. Matthew Weinberg, dated June 7, 2024.

4. Attached to this declaration as Exhibit 3 is a true and correct copy of the rebuttal expert report of Plaintiffs’ retained expert, Dr. Matthew Weinberg, dated September 9, 2024.

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5. Attached to this declaration as Exhibit 4 is a true and correct copy of a document titled “Dynamic Revenue Share,” produced by Google in this matter under the Bates number GOOG-DOJ-15195905.

6. Attached to this declaration as Exhibit 5 is a true and correct copy of a document titled “DRS and RPO Interaction in Simulation,” produced by Google in this matter under the Bates number GOOG-AT-MDL-007375273.

7. Attached to this declaration as Exhibit 6 is a true and correct copy of a document titled “Display Ads Research Meeting Notes,” produced by Google in this matter under the Bates number GOOG-TEX-00831373.

8. Attached to this declaration as Exhibit 7 is a true and correct copy of email correspondence from [REDACTED] to [REDACTED], produced by Google in this matter under the Bates number GOOG-AT-MDL-B-003716246.

9. Attached to this declaration as Exhibit 8 is a true and correct copy of the transcript from the deposition of Plaintiffs’ retained expert Jeffrey Andrien, taken on November 1, 2024.

10. Attached to this declaration as Exhibit 9 is a true and correct copy of the original expert report of Plaintiffs’ retained expert Jeffrey Andrien, dated June 7, 2024.

11. Attached to this declaration as Exhibit 10 is a true and correct copy of the rebuttal expert report of Plaintiffs’ retained expert Jeffrey Andrien, dated September 9, 2024.

12. Attached to this declaration as Exhibit 11 is an excerpt from a true and correct copy of the transcript of the Status and Scheduling Conference held in this matter on November 6, 2024.

13. Attached to this declaration as Exhibit 12 is a true and correct copy of an article authored by Rebecca Bellan and published by TechCrunch on July 23, 2024, titled *Alphabet to invest another \$5B into Waymo*, available at <https://techcrunch.com/2024/07/23/alphabet-to-invest-another-5b-into-waymo/>

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[invest-another-5b-into-](#)

[waymo/#:~:text=Alphabet%20will%20spend%20an%20additional,Alphabet's%20second%2Dquarter%20earnings%20call.](#)

14. Attached to this declaration as Exhibit 13 is a true and correct copy of the transcript from the deposition of Plaintiffs' retained expert Dr. David DeRamus, taken on October 28, 2024.

15. Attached to this declaration as Exhibit 14 is a true and correct copy of the corrected version of the expert report of Plaintiffs' retained expert Dr. David DeRamus, dated September 9, 2024, with corrections incorporated on October 25, 2024.

16. Attached to this declaration as Exhibit 15 is a true and correct copy of a Chapter in Volume 1 of the *Handbook of Law and Economics* (2007, Polinsky & Shavell, eds.), titled *The Theory of Public Enforcement of Law* and authored by A. Mitchell Polinsky and Steven Shavell. This version was included in the backup materials served by Plaintiffs in connection with Dr. DeRamus's report.

17. Attached to this declaration as Exhibit 16 is a research study titled *Cartels: the Probability of Getting Caught in the European Union*, dated March 2008 and authored by Emmanuel Combe, Constance Monnier, and Renaud Legal. This version was included in the backup materials served by Plaintiffs in connection with Dr. DeRamus's report.

18. Attached to this declaration as Exhibit 17 is an article titled *Optimal Antitrust Fines: Theory and Practice*, dated 2005 and authored by Wouter P.J. Wils. This version was included in the backup materials served by Plaintiffs in connection with Dr. DeRamus's report.

19. Attached to this declaration as Exhibit 18 is a true and correct copy of Exhibit 5 marked in the deposition of Plaintiffs' retained expert Dr. DeRamus. This document is a true and

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correct copy of a presentation titled “Beyond Bernanke,” produced by Google in this matter under the Bates number GOOG-DOJ-28385887.

20. Attached to this declaration as Exhibit 19 is a true and correct copy of a compilation of notes produced by Google in this matter under the Bates number GOOG-DOJ-32280412.

21. Attached to this declaration as Exhibit 20 is a true and correct copy of email correspondence between Aparna Pappu and [REDACTED], produced by Google in this matter under the Bates number GOOG-AT-MDL-B-001114919.

22. Attached to this declaration as Exhibit 21 is a true and correct copy of the transcript of a hearing in the matter *ZF Meritor LLC v. Eaton Corp.*, No. 06-623 (SLR), in the United States District Court for the District of Delaware, dated August 27, 2009.

23. Attached to this declaration as Exhibit 22 is a true and correct copy of a research study titled *Price Fixing: The Probability of Getting Caught*, dated 1991 and authored by Peter G. Bryant and E. Woodrow Eckard. This version was included in the backup materials served by Plaintiffs in connection with Dr. DeRamus’s report.

24. Attached to this declaration as Exhibit 23 is a true and correct copy of a study titled *Database Challenges in Financial Misconduct Research*, dated March 5, 2014 and authored by Jonathan M. Karpoff, Allison Koester, D. Scott Lee, and Gerald S. Martin, available at https://www.wichita.edu/academics/business/accountancy/documents/DatabaseChallenges_in_Financial_Misconduct_Research.pdf.

25. Attached to this declaration as Exhibit 24 is a true and correct copy of an article authored by Kamal Ahmed and published by The Telegraph on February 24, 2010, titled *Google under investigation for alleged breach of EU competition rules*, available at

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<https://www.telegraph.co.uk/technology/google/7301299/Google-under-investigation-for-alleged-breach-of-EU-competition-rules.html>.

26. Attached to this declaration as Exhibit 25 is a true and correct copy of an article published by CNN Money on February 24, 2010, titled *Google in EU antitrust inquiry*, available at

https://money.cnn.com/2010/02/24/technology/google_eu/index.htm?postversion=2010022406.

27. Attached to this declaration as Exhibit 26 is a true and correct copy of an article published by TechCrunch and authored by MG Siegler on February 23, 2010, titled *EU Opens Antitrust Investigation Into Google. Microsoft's Fingerprints Are Everywhere*, available at <https://techcrunch.com/2010/02/23/eu-antitrust-google-microsoft/>.

28. Attached to this declaration as Exhibit 27 is a true and correct copy of a post on the Google Public Policy Blog authored by Julia Holtz on February 23, 2010, titled *Committed to competing fairly*, available at <https://publicpolicy.googleblog.com/2010/02/committed-to-competing-fairly.html>.

29. Attached to this declaration as Exhibit 28 is a true and correct copy of the transcript of the deposition of Plaintiffs' retained expert Dr. John Chandler, taken on October 24, 2024.

30. Attached to this declaration as Exhibit 29 is a true and correct copy of the original expert report of Plaintiffs' retained expert Dr. John Chandler, dated June 7, 2024.

31. Attached to this declaration as Exhibit 30 is a true and correct copy of a publication authored by Pete Chapman, Julian Clinton, Randy Kerber, Thomas Khabaza, Thomas Reinartz, Colin Shearer, and Rüdiger Wirth, titled *CRISP-DM 1.0: Step-by-step data mining guide*, published in 2000.

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32. Attached to this declaration as Exhibit 31 is a true and correct copy of the transcript of the deposition of Plaintiffs' retained expert Dr. Zubair Shafiq, taken on October 9, 2024.

33. Attached to this declaration as Exhibit 32 is a true and correct copy of the expert report of Plaintiffs' retained expert Dr. Zubair Shafiq, dated September 9, 2024.

34. Attached to this declaration as Exhibit 33 is Plaintiff States' Designation of Rebuttal Expert Witnesses, dated and served on Google by Plaintiffs on September 9, 2024.

35. Attached to this declaration as Exhibit 34 is a true and correct copy of the expert report of Google's retained expert Dr. Donna Hoffman, dated July 30, 2024.

36. Attached to this declaration as Exhibit 35 is a true and correct copy of Exhibit 8 marked in the deposition of Plaintiffs' retained expert Dr. Zubair Shafiq. It is titled "Call for Papers, ACM IMC 2023."

37. Attached to this declaration as Exhibit 36 is a true and correct copy of the publicly available version of the Declaration of Zubair Shafiq, PhD, in Support of Plaintiffs' Motion for Class Certification, dated June 21, 2024, and issued in Dr. Shafiq's capacity as a retained expert for the plaintiffs in *Bernadine Griffith v. TikTok, Inc.*, No. 5:23-cv-00964-SB-E, in the United States District Court for the Central District of California.

38. Attached to this declaration as Exhibit 37 is a true and correct copy of a publication authored by Zubair Shafiq, among others, titled *Tracking, Profiling, and Ad Targeting in the Alexa Echo Smart Speaker Ecosystem*, dated October 2023.

39. Attached to this declaration as Exhibit 38 is a true and correct copy of the transcript of the deposition of Plaintiffs' retained expert Dr. Parag Pathak, taken on October 14, 2024.

40. Attached to this declaration as Exhibit 39 is a true and correct copy of the original expert report of Plaintiffs' retained expert Dr. Parag Pathak, dated September June 7, 2024.

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41. Attached to this declaration as Exhibit 40 is a true and correct copy of the transcript of the deposition of Plaintiffs' retained expert Dr. Cynthia Rudin, taken on October 9, 2024.

42. Attached to this declaration as Exhibit 41 is a true and correct copy of the expert report of Plaintiffs' retained expert Dr. Cynthia Rudin, dated September 9, 2024.

43. Attached to this declaration as Exhibit 42 is a true and correct copy of the transcript of the deposition of Plaintiffs' retained expert Dr. Anil Somayaji, taken on October 30, 2024.

44. Attached to this declaration as Exhibit 43 is a true and correct copy of the expert report of Plaintiffs' retained expert Dr. Anil Somayaji, dated September 9, 2024.

45. Attached to this declaration as Exhibit 44 is a true and correct copy of the original expert report of Google's retained expert Dr. Paul R. Milgrom, dated July 30, 2024.

46. Attached to this declaration as Exhibit 45 is an excerpt from a true and correct copy of the transcript of the deposition of [REDACTED], in her capacity as corporate representative for [REDACTED] under Federal Rule of Civil Procedure 30(b)(6), taken on May 2, 2024.

47. Attached to this declaration as Exhibit 46 is an excerpt from a true and correct copy of the transcript of the deposition of [REDACTED], in his capacity as corporate representative for [REDACTED] under Federal Rule of Civil Procedure 30(b)(6), taken on May 3, 2024.

48. Attached to this declaration as Exhibit 47 is an excerpt from a true and correct copy of the transcript of the deposition of [REDACTED], in his capacity as corporate representative for [REDACTED] under Federal Rule of Civil Procedure 30(b)(6), taken on July 28, 2023 in the matter *United States v. Google LLC*, No. 1:23-CV-00108, in the United States District Court for the Eastern District of Virginia.

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49. Attached to this declaration as Exhibit 48 is a true and correct copy of a page from the website of The Trade Desk, titled “Unified ID 2.0,” available at <https://www.thetradedesk.com/us/about-us/industry-initiatives/unified-id-solution-2-0>.

50. Attached to this declaration as Exhibit 49 is a true and correct copy of a page from the website of Amazon Ads, titled “Audiences,” available at https://advertising.amazon.com/insights-and-planning/audiences?ref=a20m_us_hnav_ent_p_ip_aud.

51. Attached to this declaration as Exhibit 50 is a true and correct copy of a page from the website of Adform, titled “Introducing the New Audience Marketplace,” available at <https://site.adform.com/resources/newsroom/introducing-the-new-audience-marketplace/>.

52. Attached to this declaration as Exhibit 51 is a true and correct copy of the transcript of the deposition of Plaintiffs’ retained expert Dr. Joshua Gans, taken on October 10, 2024.

53. Attached to this declaration as Exhibit 52 is a true and correct copy of the original expert report of Plaintiffs’ retained expert Dr. Joshua Gans, dated June 7, 2024.

54. Attached to this declaration as Exhibit 53 is a true and correct copy of the rebuttal expert report of Plaintiffs’ retained expert Dr. Joshua Gans, dated September 9, 2024.

55. Attached to this declaration as Exhibit 54 is a true and correct copy of the expert report of Google’s retained expert Dr. Michael R. Baye, dated August 6, 2024.

56. Attached to this declaration as Exhibit 55 is a true and correct copy of the sur-rebuttal expert report of Google’s retained expert Dr. Michael R. Baye, dated October 4, 2024.

57. Attached to this declaration as Exhibit 56 is a true and correct copy of the Declaration of [REDACTED], dated November 13, 2024.

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58. Pursuant to Local Rule CR-7, this declaration and the exhibits attached are filed under seal, pending preparation and filing of public-facing, redacted versions.

59. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 18th day of November 2024, in Houston, Texas.

Michael Davis

Michael Davis

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CERTIFICATE OF SERVICE

I certify that on November 18, 2024, this document was filed electronically in compliance with Local Rule CV-5(a) and served via email on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).

/s/ Michael Davis
Michael Davis

CERTIFICATE OF MOTION TO SEAL

I certify that contemporaneously with the filing of this Motion, Defendant is filing a motion to seal both this document and the expert reports attached as exhibits hereto.

/s/ Michael Davis
Michael Davis